

Message Text

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S E C R E T STATE 312466 TOSEC 340090

LIMDIS

E.O. 11652: GDS

TAGS: SF, MASS

SUBJECT:ACTION MEMORANDUM: MUNITIONS CONTROL LICENSE
APPLICATION FOR REPLACEMENT OF NAVIGATIONAL EQUIPMENT
OF SOUTH AFRICAN AIR FORCE C-130 AIRCRAFT

(S/S 7626239)

TOTHE SECRETARY FROM AF - AMBASSADOR SCHAUFLELE

1. ON DECEMBER 24 YOU APPROVED THE OPTION TO RECOMMEND TO
THE PRESIDENT THAT HE AUTHORIZE ISSUANCE OF THE MUNITIONS
CONTROL LICENSE FOR REPLACEMENT OF NAVIGATIONAL EQUIPMENT
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OF THE SOUTH AFRICAN C-130 AIRCRAFT AS AN EXCEPTION TO THE
EMBARGO POLICY. A MEMORANDUM TO THE PRESIDENT RECOMMENDING
THAT COURSE OF ACTION FOLLOWS:

2. MEMORANDUM FOR: THE PRESIDENT

FROM: HENRY A. KISSINGER

SUBJECT: MUNITIONS CONTROL LICENSE APPLICATION FOR REPLACEMENT OF NAVIGATIONAL EQUIPMENT OF SOUTH AFRICAN AIR FORCE C-130 AIRCRAFT.

HAYES INTERNATIONAL CORPORATION OF BIRMINGHAM, ALABAMA, HAS APPLIED TO THE DEPARTMENT OF STATE FOR A MUNITIONS CONTROL LICENSE IN ORDER TO REPLACE THE CONTROL AND NAVIGATIONAL EQUIPMENT ON SEVEN C-130 MILITARY TRANSPORT AIRCRAFT SOLD TO THE SOUTH AFRICAN AIR FORCE BY THE LOCKHEED CORPORATION IN 1961. I UNDERSTAND THAT THE GRANTING OF THE LICENSE IS NOT CONSISTENT WITH OUR EMBARGO ON THE EXPORT OF ARMS TO SOUTH AFRICA ESTABLISHED BY PRESIDENTIAL DIRECTIVE. FOR THE REASONS SET FORTH BELOW, THEREFORE, I RECOMMEND THAT YOU AUTHORIZE THE ISSUANCE OF THIS LICENSE AS A ONE-TIME EXCEPTION TO THE EMBARGO. THE SOUTH AFRICANS WOULD BE INFORMED THAT THEY COULD NOT USE THIS EXCEPTION AS A PRECEDENT FOR CONSIDERATION OF FUTURE LICENSE APPLICATIONS.

THE PRESIDENT ANNOUNCED THE EMBARGO ON THE EXPORT OF ARMS TO SOUTH AFRICA IN AUGUST 1963. THE EMBARGO, HOWEVER, PERMITTED THE FULFILLMENT OF CONTRACTS ENTERED INTO PRIOR TO THE IMPOSITION OF THE EMBARGO. ACCORDINGLY, LICENSE APPLICATIONS BY LOCKHEED FOR THE SUPPLY OF C-130 SPARE PARTS HAVE IN THE PAST BEEN APPROVED ON THE ASSUMPTION (SINCE FOUND TO BE ERRONEOUS) THAT THE 1961 CONTRACT BETWEEN LOCKHEED AND THE SOUTH AFRICAN GOVERNMENT CONTAINED AN INDEFINITE COMMITMENT TO SUPPLY SPARE PARTS. IN ANY CASE, HAYES IS NOT A PARTY TO ANY PRE-EXISTING
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CONTRACT TO SUPPLY THE PROPOSED EQUIPMENT AND, AS A RESULT, CANNOT BENEFIT FROM THIS EXCEPTION TO THE EMBARGO POLICY. THEREFORE, AN EXCEPTION TO THE EMBARGO IS REQUIRED IN ORDER TO GRANT THE HAYES LICENSE.

ANY EXCEPTION TO THE EMBARGO POLICY COULD ENCOUNTER CONGRESSIONAL AND PUBLIC CRITICISM. IN PARTICULAR, SECTION 502B OF THE FOREIGN ASSISTANCE ACT OF 1961, AS AMENDED, DIRECTS THE PRESIDENT TO CONDUCT US SECURITY ASSISTANCE PROGRAMS, DEFINED TO INCLUDE THE ISSUANCE OF MUNITIONS CONTROL LICENSES, IN A MANNER TO PROMOTE AND ENCOURAGE INCREASED RESPECT FOR INTERNATIONALLY RECOGNIZED HUMAN RIGHTS, AND STATES THAT IT IS UNITED STATES POLICY TO REFRAIN FROM PROVIDING SECURITY ASSISTANCE TO COUNTRIES WHICH ENGAGE IN A CONSISTENT PATTERN OF GROSS HUMAN RIGHTS VIOLATIONS, UNLESS THERE ARE "EXTRAORDINARY CIRCUMSTANCES" WHICH COMPEL A CONCLUSION THAT "ON ALL THE FACTS" IT IS IN THE NATIONAL INTEREST TO FURNISH SUCH

"ASSISTANCE." NEVERTHELESS I BELIEVE THAT A CASE FOR
ISSUANCE OF THIS LICENSE CAN BE MADE ON POLITICAL GROUNDS
AND, IF NECESSARY, DEFENDED.

THE COOPERATION OF THE GOVERNMENT OF SOUTH AFRICA HAS
AND WILL CONTINUE TO BE VITAL TO OUR EFFORTS TO MAINTAIN
PEACE AND STABILITY IN SOUTHERN AFRICA. IT IS NOT IN THE
INTEREST OF THE US AT THIS TIME TO TAKE A NEGATIVE
POSITION ON A RELATIVELY MINOR EMBARGO ISSUE WHICH MIGHT

BE SEEN BY THE GOVERNMENT OF SOUTH AFRICA AS A LESSENING
OF OUR COOPERATIVE RELATIONSHIP TO THE DETRIMENT OF OUR
CURRENT SOUTHERN AFRICA INITIATIVES.

I THEREFORE STRONGLY RECOMMEND THAT YOU GRANT A ONE-TIME
EXCEPTION. THIS EXCEPTION WOULD BE STRICTLY LIMITED
TO THE PRESENT LICENSE APPLICATION AND THE SOUTH AFRICANS
WOULD BE INFORMED THAT THEY COULD NOT USE THIS EXCEPTION
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AS A PRECEDENT IN FUTURE LICENSE APPLICATIONS.

3. RECOMMENDATION

THAT YOU APPROVE THE DESPATCH OF THIS MEMORANDUM TO THE
WHITE HOUSE FOR THE PRESIDENT'S APPROVAL.

APPROVE

DISAPPROVE

4. CLEARED BY PM - MR. ERICSON; L - MR. ORLINS;
S - HCOLLUMS ; DRAFTED BY AF:USTRAUS
APPROVED:AF:AMB. SCHAUFLE

ROBINSON

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NNN

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